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1649-101-63

January 28, 1999

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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JAN 28 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY


Re: Comments of Station Resource Group
MM Docket No. 95-31

Dear Ms. Salas:

Transmitted herewith, are the original and four copies of the Comments of Station Resource Group, filed in response to the above-captioned Further Notice of Proposed Rule Making.

Please refer any questions concerning this matter directly to this office.

Respectfully submitted,


John Crigler

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Enclosure

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Before The
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:

Reexamination of the Comparative
Standards for Noncommercial
Educational Applicants

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MM Docket No. 95-31

RECEIVED

JAN 28 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: Chief, Mass Media Bureau

COMMENTS OF STATION RESOURCE GROUP

January 28, 1999

Haley Bader & Potts P.L.C.
4350 North Fairfax Drive
Suite 900
Arlington, VA 22203

SUMMARY

Station Resource Group ("SRG") recommends that the FCC adopt a point system, not a lottery or modified comparative hearing process, to award construction permits to one of several mutually exclusive (mx'd) applicants. The problem is critical: the few remaining noncommercial frequencies are being rapidly depleted. A handful of applicants are filing an enormous number of applications with little or no apparent regard for the needs of the area that would be served. The application process has been gridlocked. Almost two-thirds of applications now filed are mx'd.

Given their complexity and cost, comparative hearings are an impractical solution to the problem. Lotteries make no attempt to award permits to the "best" applicants and reward speculators by favoring those who file the largest number of applications. A point system is a practical compromise.

SRG proposes a simplified point system in which points are awarded to applicants who would: (1) increase diversity (2) serve unserved and under-served areas, and (3) respond to local needs.

Construction permits awarded through the point system would be subject to a five-year holding period during which the permittee would annually have to certify compliance with the commitments for which it was awarded the permit. During the holding period permits or licenses awarded by the point system could be sold only for reimbursable expenses.

Before The
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:)	
)	
Reexamination of the Comparative)	MM Docket No. 95-31
Standards for Noncommercial)	
Educational Applicants)	

TO: Chief, Mass Media Bureau

COMMENTS OF STATION RESOURCE GROUP

The Station Resource Group ("SRG") respectfully submits these Comments in response to the above-captioned Further Notice of Proposed Rule Making ("NPRM"), released October 21, 1998.

SRG is a membership organization of some of public radio's leading broadcasters. SRG's 47 members operate 168 public radio stations across the country, account for one-third of public radio's audience and produce the majority of public radio's national programming.

INTRODUCTION

The Commission has, for many years, tried to articulate workable criteria for awarding construction permits to mutually exclusive (mx) applicants for noncommercial educational (NCE) frequencies. The criteria used to compare mx'd commercial applicants, See Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393 (1965), were, almost from

their inception, considered “inappropriate” for NCE applicants and were substantially modified for use in noncommercial hearings. See New York University, 10 RR 2d 215 (1967).

The modified NCE criteria were themselves subject to continuing criticism by both the adjudicated and adjudicators. Such criticism culminated in the Review Board’s description of the criteria, as “vague,” “amorphous” and “meaningless.” Black Television Workshop of Santa Rosa, Inc., 65 RR 2d 34, 35 (Rev. Bd. 1984). Compare Real Life Educational Foundation of Baton Rouge, Inc., 6 FCC Rcd 2577, 2580, n.8 (Rev. Bd. 1991).

In 1992, the Commission invited comment on new NCE comparative criteria and proposed a “point system” as an alternative. Reexamination of the Policy Statement on Comparative Broadcast Hearings, GC Docket No. 92-52, 7 FCC Rcd 2664 (1992).

In 1995, the Commission concluded that the record was “not sufficient to fully decide the issue,” and invited further comment. Reexamination of the Comparative Standards for New Noncommercial Educational Applicants, MM Docket No. 95-31, 10 FCC Rcd 2877 (1995). Among the questions again posed was whether the Commission should refine the existing NCE comparative criteria or adopt a new “point system.” The Commission also concluded that the existing comparative criteria should not continue to be used and froze further comparative hearings for NCE facilities. Although the Commission stated that it was “sensitive to the need to resolve the questions addressed in

this proceeding as quickly as possible,” FCC Rcd at 2877, four years have gone by and the issues remain unresolved.

The suspension of comparative hearings, along with other factors, has left the reserved spectrum vulnerable to exploitation. No multiple ownership rules restrict the number of NCE applications that can be filed. See 47 C.F.R. § 73.3555. Vague eligibility standards permit applications by virtually any organization claiming to have an “educational purpose.” See 47 C.F.R. § 73.503(a). The Commission’s policy of liberally waiving its main studio requirement to enable NCE applicants to operate “satellite” stations, See Memorandum Opinion and Order, MM Docket No. 86-406, 3 FCC Rcd 5024, 5027 (1988), allows applicants to propose NCE stations with no “meaningful presence” in their community of license. See 47 C.F.R. 1125 and Jones Eastern of the Outer Banks, Inc., 77 RR 2d 1270 (1995). The freeze on commercial FM frequencies makes NCE frequencies the only FM frequencies available by application. See Notice of Proposed Rule Making, Competitive Bidding for Commercial Broadcast and ITFS Service Licenses, MM Docket No. 97-234, 12 FCC Rcd 22, 363(1997); First Report and Order, MM Docket No. 97-234, FCC 98-194 (August 18, 1998) (Competitive Bidding). The absence of filing and regulatory fees make NCE frequencies free for the taking.

Translator frequencies are similarly vulnerable. NCE stations are exempt from the restrictions that translator stations “fill in” the coverage of a primary station and rebroadcast a signal received over-the-air. See 47 C.F.R. 74.1231(b). These exemptions, and the lack of any limit on the number of

applications that could be filed, See 47 C.F.R. 1232(b), permit the creation of large satellite-fed translator networks in which the signal of a primary station may be re-transmitted by dozens of translator stations thousands of miles away. The growth of far-flung translator networks has increased congestion in the reserved spectrum and reduced listenership to existing NCE stations.

While existing stations have a legal right to complain about potential interference, that right can be exercised only by providing “convincing evidence” that interference will occur. Amendment of Part 74 of the Commission’s Rules Concerning FM Translator Stations, 5 FCC Rcd 7212 (1990), modified, 6 FCC Rcd 2334 (1991), recon. denied, 8 FCC Rcd 5093 (1993). Proof of actual interference must be “established through the receipt of unsolicited complaints from listeners. . . .” In re Application of Calvary Chapel of Twin Falls, File No. BPFT-96073ITC (MMB, June 6, 1997). These rigorous standards have made it extremely difficult for existing NCE stations to protect their listeners from interference.

These conditions have stimulated an enormous number of applications for the few remaining NCE frequencies. As the NPRM indicates, “The number of mutually exclusive NCE applications filed each year is growing, especially for radio.” The Commission predicts that the number of applications filed in 1998 (750) will be almost twice the number filed in 1997 (445) and that the percent of mx’d applications will increase from 56% (250 of 445) to 67% (500 of 750). NPRM, para. 11, n. 11.

These alarming statistics tell only part of the story, however. They do not, for example, indicate that much of the congestion is caused by a relatively few applicants. Exhibit 1 lists the 25 applicants with the largest number of pending applications. It shows, for example, that American Family Association currently holds 165 NCE licenses and has 178 pending full-service station applications, 11 of which are mx'd; and that Broadcasting for the Challenged, which has no licensed stations, has 87 pending full-service station applications, 77 of which are mx'd. These two applicants alone have applied for almost twice as many stations as are currently licensed to SRG's 47 members. The 10 most active filers have pending applications for some 675 NCE frequencies. The 25 most active filers have pending applications for some 793 NCE frequencies.

Even the statistics contained in Exhibit 1 understate the attempts made by a few applicants to obtain control over a large number of NCE frequencies. Exhibit 1 does not, for example, aggregate the applications filed in the name of a series of different non-profit corporations, all owned and controlled by one family.¹ Nor does the list reflect affiliations among applicants. It does not, for example, indicate that two of the most active applicants, Calvary Chapel of Twin Falls, Inc. ("CCTF") and CSN International ("CSN"), have interlocking

¹ See Exhibit 2 for a listing of the NCE applications in which the Lacy family has a controlling interest.

directorates and that the President and Vice-Presidents of CSN are directors and officers of CCTF.²

In the absence of comparative hearings, it is impossible to test even the basic qualifications of these applicants. Broadcasting for the Challenged is a "nonprofit corporation" made up of the members of a single family. One member, in his own name, has approximately 40 pending applications for new commercial radio stations and 6 new commercial television stations.³ He has dismissed an additional 16 applications for commercial FM stations pursuant to settlement. In addition, the same person is a principal of Kaleidoscope Foundation, Inc., applicant for a new noncommercial TV at Memphis, Tennessee, and Kaleidoscope Partners, applicant for four commercial TV stations. In the days when the Commission conducted comparative hearings, these facts would have warranted an inquiry into the question of whether Broadcasting for the Challenged is a bona fide NCE applicant or merely a vehicle for speculating in reserved frequencies.

The lack of comparative hearings has been aggravated by the lack of Commission action on petitions to deny. Although the Commission issued no Public Notice to this effect, it apparently suspended action on petitions to deny in 1995 when it froze NCE comparative hearings. A petition to deny filed

² For example, Michael R. Kestler, a Vice-President of CSN, is President of CCTF. The President of CSN is a Director of CCTF. See Exhibit 3 for a disclosure of ownership interests contained in a recent CSN application.

³ Exhibit 4 is a statement of broadcast interests contained in a recent Broadcasting for the Challenged application.

by one SRG member has been pending since January 1998. The petition addresses fundamental defects in an application which causes four other applications to be mx'd. The petition alleges that the applicant misrepresented its status as a nonprofit corporation, that a real party in interest issue with respect to the true applicant remains outstanding, that the application is the creation of a convicted felon with a history of violating FCC rules, and that the application is fatally defective because the applicant declined to answer damaging questions about its educational purpose, the ownership interests of parties to the application, the location of its antenna site, or its compliance with RF standards that protect workers and the public from exposure to excessive radiation.

In short, the lack of effective regulatory scrutiny has stimulated the filing of applications that have gridlocked further development of NCE broadcasting. Cut-off lists which give interested parties an opportunity to file competing applications have become shopping lists for aggressive applicants. Sham applicants have brought the Commission's application processes to a standstill. Any proposal adopted in this proceeding should correct, rather than encourage, these abuses.

I. THE NPRM PROPOSALS

A. OPTIONS FOR AWARDING CONSTRUCTION PERMITS

The NPRM proposes three options for awarding a construction permit to mx'd NCE applicants: (1) a traditional comparative hearing; (2) a lottery; and (3) a point system. SRG supports adoption of a point system.

In theory, comparative hearings are the most appropriate means of awarding construction permits to mx'd NCE applicants. The discovery and trial process, administered by experienced Administrative Law Judges, provides an effective means of scrutinizing such issues as an applicant's eligibility to hold an NCE license and relevant indicia of its ability to serve the public interest. In practice, however, many NCE applicants are simply unable to afford the lengthy and expensive hearing process, to say nothing of the multiple opportunities for review, reconsideration and appeal.

The hearing process also historically failed to produce what applicants most desired—a decision awarding a construction permit to one of the applicants. The amorphous nature of the NCE comparative issues made clear-cut decisions difficult, and ALJs frequently resolved NCE comparative hearings by ordering that the frequency be “shared,” even by parties bitterly opposed to the idea. See e.g. Southeastern Bible College, Inc., 49 RR 2d 243 (Rev. Bd. 1981). Given the difficulty of crafting new NCE comparative criteria and the expense of full-blown evidentiary hearings, SRG concludes that the hearing option is not feasible for most NCE applicants.

For different reasons, lotteries are an equally undesirable option for resolving mx'd proceedings. If hearings produce rational decisions at enormous costs, lotteries produce inexpensive but irrational decisions that require no commitment from applicants. As the NPRM notes, "a lottery is a method of random selection based on chance." NPRM, para. 11. The element of chance remains dominant even if the lottery is "weighted" as required by 47 U.S.C. § 309(i)(3).

A lottery is antithetical to the idea of reserving spectrum for special noncommercial purposes. When the FCC allotted spectrum for the development of an FM broadcast service in 1945, it reserved 20 of the allotted channels for noncommercial educational stations, and articulated basic principles that have governed the award of NCE spectrum ever since:

Since the radio spectrum is public domain, the granting of a license to operate a station is a valuable public privilege. . . . It is economically and socially unwise to concentrate the control of broadcast facilities in the hands of a select few, and it is economically and socially essential to keep the door open to the fullest extent possible for newcomers.

Statement on FM Broadcast Service, Docket No. 6651, January 15, 1945.

Reprinted in Broadcasting, January 16, 1945, p. 17.

Adoption of lottery procedures would create a free-for-all in which applicants are given an incentive to file, not to serve a particular community, nor even to achieve an educational purpose, but simply because to obtain a chance to acquire spectrum. In a worst case scenario, a lottery winner cursed

with spectrum it could not use could count on assigning it and at least recovering all costs.

Lotteries exacerbate existing abuses and accelerate the depletion of rapidly dwindling reserved frequencies. Contrary to long-established Commission policies, lotteries would reward mass filers and disadvantage newcomers. Traditionally, educational institutions and cultural organizations have been rooted in a particular place and driven by a desire to serve particular communities. Lotteries would, by contrast, attract applicants eager to file applications for any frequency anywhere. As the NPRM concedes, lotteries would not reward the “best” applicants, NPRM para. 20, but the applicants who maximize their odds by filing the largest number of applications possible.

A point system is a practical compromise between a hearing and a lottery. SRG believes that the Commission can design a point system that will make awards with some of the rational selectivity of a comparative hearing and some of the efficiency of a lottery. To achieve these goals, any point system must be based upon enforceable criteria that advance basic goals of public broadcasting.

B. CRITIQUE OF NPRM PROPOSALS

1. FIRST LOCAL SERVICE

Points should not be awarded for commitments that are laudatory but unenforceable. As Bechtel v. FCC, 10 F.3d 875, 878-880 (D.C. Cir. 1993),

makes clear, the criteria used to award construction permits among competing applicants may be based upon “predictive judgments,” provided that the judgments are “verifiable” and enduring, not speculative or “ephemeral.” 10 F.3d at 880. Based upon these standards, SRG does not believe that points should be awarded to some of the factors proposed in the NPRM. For example, a point should not be awarded to an applicant who proposes to provide the “first local service” licensed to a community. See NPRM, para. 21. Although “first local service” is a factor considered in allotting commercial FM channels, it is not a reliable indicator of the best applicant for a reserved frequency. Unlike commercial FM channels, NCE channels are not allotted to particular communities, nor are NCE stations required to cover their communities of license with a city grade contour. See 47 C.F.R. 315(a). The Commission has only recently addressed the issue of what level of service an NCE owes its community of license, by proposing to require NCE stations “to provide 60 dBu (1mV/m) service to at least a portion of the community of license.” Notice of Proposed Rule Making and Order, MM Docket No. 98-93 (June 15, 1998) (emphasis added).

Favoring one NCE applicant over another based upon the arbitrary choice of community of license would promote gamesmanship rather than any discernible benefit to the public. Such a point system would illogically distinguish between two applicants with identical technical facilities and identically located main studios who had merely designated different communities as their “community of license.” Awarding points on such a basis

might encourage applicants to name small villages as their community of license, but would not provide one whit more service to the named community of license. The “first local service” criterion would encourage manipulation of the point system without achieving any public benefit.

2. LOCAL DIVERSITY

The Commission’s proposal to award two points for “local diversity” is similarly flawed. Like the “first local service” proposal, this proposal mistakenly relies upon the applicant’s “principal community contour” as a basis for the credit. As noted above, NCE stations are not required to place a principal community contour over their community of license, nor to maintain a local public file within their principal community contour. (See Section 73.1125 which permits an NCE station to locate its public inspection file within a radius of 25 miles from its community of license.) Because the “principal community contour” does not correspond to any meaningful regulatory requirement, use of it to determine “local diversity” is arbitrary.

Such a standard will become even more arbitrary if the Commission modifies the definition of a “major change” for NCE stations and cuts off “minor change” applications on the day of filing, as proposed in MM Docket No. 98-93, supra. An applicant could engineer its application so as to obtain “local diversity” points, but substantially modify that construction permit with impunity the day after the permit is issued.

A “local diversity” credit is also inconsistent with the “local educational presence credit” which the NPRM proposes in paragraph 24. As the Commission notes, many educational organizations are local, not national, in nature. Their resources and goals are intimately linked to a limited geographic region.

Adoption of a “local diversity” credit would not only hamper institutional and community applicants from carrying out their educational purposes, but would, in practice, decrease diversity of programming. There are compelling reasons an NCE broadcaster may wish to serve the same area with two signals. A university which has a “student station” or a station specializing in a particular musical format may respond to an important public need by proposing a station with a news and information format. Although the two stations would serve completely different constituencies and have no programming in common, the application for the second station would be disfavored on “local diversity” grounds.

3. REPRESENTATIVENESS

Other factors proposed by the NPRM have defects similar to those of the “first local service” and “local diversity” criteria. While SRG agrees that having a board that is “broadly representative of the community” is a worthy goal, SRG is skeptical that the criteria for determining “representativeness” can be easily defined⁴ or that the Commission could easily enforce such a

⁴ SRG is leery of resurrecting elements of long-abandoned formal ascertainment requirements, even for the purpose of classifying “community leaders.”

criterion. Would a board cease to be “representative” if any member of its board was not a “community leader” as defined by ascertainment criteria? If a majority of the board were not “community leaders”? Would a permittee forfeit its construction permit if, at any time, its board ceased to be “representative”?⁵

II. SRG PROPOSALS

A. DIVERSITY

SRG agrees that “diversity” (as opposed to “local diversity”) is an important goal to be achieved. To reconcile this goal with the traditionally local nature of NCE broadcasting, SRG proposes a two-tiered approach, similar to the “new entrant bidding credit” adopted for auctions of commercial frequencies. See First Report and Order, MM Docket No. 97-234. FCC 98-194 (released August 18, 1998). Specifically, SRG proposes that applicants with no more than one other NCE license or construction permit receive 2 points and that applicants with no more than 5 other NCE licenses or construction permits receive 1 point.

To deter mass filings, SRG also proposes that the Commission adopt a quarterly “window filing” procedure and limit the number of applications any applicant, or its affiliate, may file to no more than 5 applications per window.

⁵ Similar problems would arise in awarding points to applicants that are controlled by members of minority groups. The problems inherent in defining and enforcing “control” would be compounded by the Constitutional problem of granting governmental preferences based upon race. See Adarand Construction v. Peña, 515 U.S. 200 (1995).

B. FAIR DISTRIBUTION OF SERVICE

The NPRM at paragraph 21 proposes to use commercial FM rule making criteria to evaluate NCE applications. While SRG agrees that Section 307(b) of the Communications Act is relevant to the licensing of the NCE spectrum, it does not believe that the commercial criteria can be applied wholesale.⁶ As noted above, the scheme adopted for unallotted, reserved FM frequencies is completely different from that for allotted, non-reserved frequencies. NCE applicants are given considerable discretion to choose their community of license and to design technical facilities that will comply with applicable interference constraints. The Commission has proposed to give NCE permittees new discretion to modify outstanding construction permits by changing the definition of a "major change." Under the proposed definition, a permittee can alter its coverage by more than 50% without triggering an opportunity for the filing of competing applications or petitions to deny. Notice of Proposed Rule Making and Order, MM Docket 98-93, released June 15, 1998.

SRG recommends that applicants proposing a first full-time NCE aural service (i.e., a service that provides the first noncommercial full-service signal to an area) receive 2 points, and that applicants providing NCE service to an

⁶ The Commission has never applied a "boilerplate 307(b)" analysis to reserved frequencies. See New York University, 10 RR 2d 215 (1967); accord Texas Educational Broadcasting Cooperative, Inc., 7 FCC Rcd 4069 (ALJ, 1992).

underserved area (i.e., an area receiving service from only one other NCE full-service station) receive 1 point. Applicants seeking such credit would be required to provide the necessary showing of coverage. To prevent manipulation of the application process, applications receiving Section 307(b) credits would be conditioned upon the applicant's constructing the facilities substantially as authorized.⁷ In light of the fact that most areas of the country now receive at least some NCE service, SRG believes that 307(b) credit would be decisive in relatively few cases. In these cases, the Commission is justified in requiring that a prevailing applicant keep its promise to serve unserved or underserved areas.

C. TECHNICAL PARAMETERS.

The NPRM proposes to give 1 point (and in some cases 2 points, See n. 24) to applicants who provide coverage to "10% more area and 10% more people." NPRM, paras. 21-22. SRG does not believe such a credit is warranted. Because of their dependence on public support, NCE applicants have a strong incentive to design efficient technical facilities. The danger that applicants will "under build" is slight. The credit proposed by the NPRM would also be difficult to enforce. While it might be possible to condition construction permits on the delivery of service to the area and population proposed, such a condition would severely limit a permittee's flexibility to modify its facilities.

⁷ Modifications should be permitted only upon a showing of good cause. Coverage of at least 80% of the authorized service area would be required to satisfy this requirement. Compare 47 C.F.R. § 315(a).

Harsh results would follow. The unforeseeable loss of a proposed transmitter site or the inability of an antenna manufacturer to achieve a proposed antenna pattern could result in the loss of a construction permit.

D. OTHER FACTORS - LOCAL PRESENCE CREDIT

SRG supports a credit for organizations committed to the local service area. As the NPRM notes, many nonprofit organizations cannot carry out their objectives at great distances from the area in which they are located. NPRM, para. 24, n. 26. Public entities such as municipalities and states create plans to serve particular areas. Colleges are typically organized around one or more campuses. Only frequencies that serve these areas are useful. Similarly, private non-profit organizations are often organized to serve a particular community or state. Vermont Public Radio, for example, devotes its resources to serving the population of Vermont. Minnesota Public Radio serves communities primarily in Minnesota.

While the Commission has repeatedly affirmed a broadcaster's fundamental duty to serve the interests of the community of license, the construction permit application (FCC Form 340) elicits little information that supports the applicant's commitment to that duty.⁸ The Commission would be warranted in concluding that a local applicant—one with a presence in or creditable legal commitment to the service area—will be more sensitive to the

⁸ Section IV of FCC Form 340 merely requires the applicant to provide a statement of its intent to address issues of public concern.

needs and interests of that service area than an applicant with no such commitment.

SRG proposes that 1 point be awarded to “local” applicants and that a local applicant be defined as one that is “physically located” in the service area of the proposed station, See 47 C.F.R. § 74, 932, n.1, or one that plans to serve the state within which the proposed service area is located. Applicants seeking such a credit would be required to submit a copy of their articles of incorporation or other enabling document containing such a “local” commitment. Applicants unable to demonstrate a legal commitment to serve the proposed service area would receive no points. The proposed local presence award would continue the credit traditionally given to applications that advance a “state-wide” plan. See 47 C.F.R. § 502.

E. TIE-BREAKERS

In the event that two or more mutually exclusive applicants receive the same number of points, SRG proposes that the Commission follow the procedure established for tied ITFS applicants, See 47 C.F.R. § 74.913(c), and allow the best qualified (highest scoring) applicants 30 days in which to reach a settlement agreement. If no agreement is reached within the 30-day settlement period, the Commission would grant the application of the applicant with the fewest applications pending. Such a tie-breaker preference is consistent with the goals of diversity and localism, discussed above.

If the tie-breaker award does not resolve the tie, then the permit should be awarded by an unweighted lottery. SRG does not favor mandatory time-sharing or a “finder’s preference” as a tie-breaking mechanism. Mandatory time-sharing among applicants who have been unable to negotiate a time-sharing agreement is unlikely to satisfy either the applicants or the listening public. Award of a “finder’s preference” would, as the NPRM predicts, “result in a rush to apply for all vacant NCE channels.” NPRM, para. 25.

F. HOLDING PERIOD

SRG supports the imposition of a 5-year “holding period” for any NCE permit awarded on the basis of a point system. That holding period would begin to run from the date the constructed station began operating. SRG also endorses the proposal that during the holding period prevailing applicants annually certify their continuing eligibility for the points they have received and certify that they have not entered into any agreement or option to transfer the permit or license awarded. See NPRM, para. 30.

If a prevailing party seeks to transfer or assign a construction permit or license during the holding period, consideration for the transfer or assignment should be limited to reasonable and prudent expenses. Allowable expenses should not include operating costs or compensation to board members.⁹

⁹ Operating costs are, by definition, those related to the operation of the station. They are therefore distinguishable from a capital expenditure that becomes an assignable asset. Compensation to board members should be excluded for similar reasons. In addition, board members are principals. The Commission has never allowed principals to recover the value of their time in calculating the “legitimate and prudent” expenses for which a permit or license may be sold. See 47 C.F.R. 73.3597(c)(2).

G. PETITIONS TO DENY

Any system of awarding a construction permit to an mx'd applicant must provide an opportunity to file a petition to deny. Such a safeguard is necessary not only to test the representations upon which an applicant's comparative qualifications are based, but also to challenge the applicant's basic qualifications. Basic qualification issues would include the applicant's eligibility to hold an NCE license, the validity of its financial qualifications, and its compliance with all technical requirements.

To conserve the Commission's resources, as well as those of mx'd applicants, SRG proposes that the opportunity for filing petitions to deny be given after the tentative selection of a permittee, rather than after the acceptance for filing of each mx'd application. Such a procedure would reduce the number of petitions to deny by limiting the class of applicants against which petitions to deny could be filed. The proposed procedure is consistent with procedures adopted for commercial applications to be awarded by auction. See Competitive Bidding, First Report and Order at paras. 165-166.

In the event the Commission denies the application of the tentatively selected permittee, it would award the permit to the applicant with the next highest score. The grant of that application would then be subject to petitions to deny.

CONCLUSION

SRG supports a point system which awards points based upon diversity, modified 307(b) criteria and localism.

SRG recognizes that such a simplified point system does not compare programming proposals, the "representativeness" of governing boards, or a number of other laudatory goals. SRG has excluded such factors from its proposal not because they are unimportant, but because contained in an application is an insufficient basis for evaluation, or because such factors cannot be enforced.

Respectfully submitted,

STATION RESOURCE GROUP

By: _____

John Crigler
Its Attorney

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January 28, 1999

EXHIBIT 1

NUMBER OF NONCOMMERCIAL APPLICATIONS FILED BY THE 25 MOST-ACTIVE APPLICANTS

Owner	Number of Noncommercial Applications	Number of MXs	Number of Noncommercial Full-Service Applications	Total Number of Licenses
1. American Family Association	179	115	178	165
2. Calvary Chapel of Twin Falls, Inc.	111	11	2	101
3. Broadcasting for the Challenged, Inc.	87	77	87	0
4. Educational Media Foundation	85	26	31	55
5. Paulino Bernal Evangelism	40	14	11	1
6. Pensacola Christian College, Inc.	38	14	14	26
7. CSN International	36	27	36	3
8. Family Stations, Inc.	36	16	34	135
9. Bible Broadcasting Network, Inc.	15	9	6	122
10. Educational Communications of CO Springs, Inc.	15	12	15	12
11. Colorado Christian University	14	10	14	29
12. Great Lakes Community Broadcasting, Inc.	14	5	14	0
13. Christian Educational Association	13	6	13	0
14. Mary V. Harris Foundation	12	11	12	0
15. Positive Alternative Radio, Inc.	12	8	5	8
16. The Moody Bible Institute of Chicago	8	4	8	22
17. Houston Christian Broadcasters, Inc.	8	5	8	3
18. Community Broadcasting, Inc.	6	6	4	6
19. Positive Programming Foundation	6	6	6	0
20. Cornerstone Community Radio, Inc.	5	4	5	4
21. Public Broadcasting of Colorado, Inc.	5	4	5	15
22. Educational Media Corporation	4	3	4	19
23. Family Radio Network, Inc.	4	4	4	1
24. Way-FM Media Group, Inc.	4	4	2	0
25. Hymn Time, Inc.	3	3	3	0

ALPHABETICAL LISTING OF MOST-ACTIVE APPLICANTS FOR NCE FREQUENCIES

Owner	Number of MXs	Total Number of Licenses	Number of Noncommercial Applications	Number of Noncommercial Full-Service Applications
1. American Family Association	115	165	179	178
2. Bible Broadcasting Network, Inc.	9	122	15	6
3. Broadcasting for the Challenged, Inc.	77	0	87	87
4. CSN International	27	3	36	36
5. Calvary Chapel of Twin Falls, Inc.	11	101	111	2
6. Christian Educational Association	6	0	13	13
7. Colorado Christian University	10	29	14	14
8. Community Broadcasting, Inc.	6	6	6	4
9. Cornerstone Community Radio, Inc.	4	4	5	5
10. Educational Communications of CO Springs, Inc.	12	12	15	15
11. Educational Media Foundation	26	55	85	31
12. Educational Media Corporation	3	19	4	4
13. Great Lakes Community Broadcasting, Inc.	5	0	14	14
14. Family Radio Network, Inc.	4	1	4	4
15. Family Stations, Inc.	16	135	36	34
16. Houston Christian Broadcasters, Inc.	5	3	8	8
17. Hymn Time, Inc.	3	0	3	3
18. Mary V. Harris Foundation	11	0	12	12
19. The Moody Bible Institute of Chicago	4	22	8	8
20. Paulino Bernal Evangelism	14	1	40	11
21. Pensacola Christian College, Inc.	14	26	38	14
22. Positive Alternative Radio, Inc.	8	8	12	5
23. Positive Programming Foundation	6	0	6	6
24. Public Broadcasting of Colorado, Inc.	4	15	5	5
25. Way-FM Media Group, Inc.	4	0	4	2

SOURCES OF INFORMATION CONTAINED IN EXHIBIT 1

The FCC's FM engineering database (file "fmfxeng.dat.gz"), located at ftp://ftp.fcc.gov/pub/Bureaus/Mass_Media/Databases/ is the primary source of the data presented in Exhibit 1.

The "number of noncommercial applications" entry includes all translator applications and full-service applications specifying reserved channel frequencies (i.e. those between 88.1 MHz through 91.9 MHz). These applications are identified by the prefixes "BPFT" (for translator applications) and "BPED" (for full-service stations). The "number of noncommercial full-service applications" tallies full-service applications for reserved frequencies. These applications are identified by the prefix "BPED."

The "number of MXs" and "total number of licenses" entries were derived from MX Watch, located at <http://www.verinet.com>. MX Watch is compiled by Public Radio for the Front Range, which has two pending mx'd applications for new NCE facilities to serve Fort Collins, Colorado. The MX Watch figures can be compared to the FCC's list entitled *FM Educational Mutually Exclusive Broadcast Application Groups*. The FCC's list can be accessed at <http://www.fcc.gov/mmb/asd/status/mx-educ.html>. The FCC's list identifies mx'd application by file number and community of license.

EXHIBIT 2

The attached information is contained in the application of Ft. Worth
Stephenville FM, Inc., for a new NCE station to serve Stephenville, Texas.
(File No. BPED-980901MH).

Exhibit 3-A
Broadcast Interests

William R. Lacy, Lucille A. Lacy, Dan Lacy III / Individually or Inclusive

City & State	Governing Bd. & or Stockholder	Type of Facility	Call Sign, File No. or Date
Stephenville, Texas	Ft. Worth Stephenville FM Inc.	FM Broadcast 213-C3	1998
Bay City, Texas	Houston Bay City Inc.	FM Broadcast 208-C3	1998
Earlham, Iowa	Des Moines Earlham Inc.	FM Broadcast 215-C	1998
Comfort, Texas	San Antonio Comfort Inc.	FM Broadcast 218-A	1998
Dubuque, Iowa	Dubuque Thinkcasters Inc.	FM Broadcast 205-A	1998
Laramie, WY.	Laramie Union Broadcasting Inc.	FM Broadcast 215-C	1998
Nassawadox, VA.	Nassawadox FM Inc.	FM Broadcast 211-C2	1998
Montgomery, NY.	Montgomery NYC Broadcasting Inc.	FM Broadcast 201-A	1998
Lawrenceburg, TN.	Lawrenceburg Community Radio Inc.	FM Broadcast 203-A	BPED-980812MK
Aspen, CO.	Aspen Public Radio Inc.	FM Broadcast 201-C3	BPED-980812MI
Hickory, N.C.	Hickory Educational Inc.	FM Broadcast 206-A	BPED-980812MJ
Pontiac, IL.	Pontiac Public Radio Inc.	FM Broadcast 202-A	BPED-980731MC
Morris, IL.	Southwest Chicago Educational Inc.	FM Broadcast 214-C3	BPED-980730MB
Pana, IL.	Pana Public Radio Inc.	FM Broadcast 207-A	BPED-980727MC
Winchester, IL.	Winchester Public Radio Inc.	FM Broadcast 202-A	BPED-980727ME
Rochester, IN.	Rochester Community Radio Inc.	FM Broadcast 203-A	BPED-980727MA
Pleasant Plains, IL.	Pleasant Plains, Illinois NEC, Inc.	FM Broadcast 201-A	BPED-980727MB
Bushnell, FL.	West Coast Educational Inc.	FM Broadcast 207-A	BPED-980727MF
Ogden, N.C.	North Carolina Public Broadcast Inc	FM Broadcast 202-A	BPED-980707MB
Redwood, CA.	Redwood Valley Broadcasters, Inc.	FM Broadcast 201-B	BPED-980618MB
Casper, WY.	Casper Learning FM Inc.	FM Broadcast 206-C2	BPED-980618MF
Poplar Bluff, MO.	Poplar Bluff Educational Inc.	FM Broadcast 204-C2	BPED-980528MA
Elizabeth City, N.C.	Elizabeth City Educational Inc.	FM Broadcast 202-A	BPED-980528MF
Key West, FL.	Star Radio Inc.	FM Broadcast 206-C3	BPED-980526MC
Key West, FL.	Southernmost Educational Inc.	FM Broadcast 202-A	BPED-980516MD
Key West, FL.	Good Idea Inc.	FM Broadcast 211-C3	BPED-970815MA
Inglis, FL.	West Coast Radio Corporation	FM Broadcast Station	WAVQ 1997
Nocatee, FL.	Star Radio Inc.	FM Broadcast 287-A	BPH-970224MB
Durango, CO.	KWXA Inc.	FM Broadcast Station	KWXA 1996
Amarillo, TX.	West Coast Radio Corporation	FM Broadcast Station	KARX 1995
Amarillo, TX.	Amarillo Radio Corporation	FM Broadcast Station	KBUD 1995
Sebastian, FL.	Star Radio Inc.	FM Broadcast 240-C3	BPH-941207MA
Yankeetown, FL.	Star Radio Inc.	FM Broadcast 242-A	BPH-930908MC
Raymondville, TX.	Individual Applicant	FM Broadcast Station	KARU 1991
Alva, OK.	Individual Applicant	FM Broadcast Station	1991
Oklahoma City, OK.	Zumma Broadcasting Company Inc.	FM Broadcast Station	KZBS 1990
Durango, CO.	Mountain States Broadcast Corporation	FM Broadcast Station	KIQX 1986
Pueblo, CO.	Miller Communications Inc.	AM Broadcast Station	KCSJ 1984
Provo, UT.	Mountain States Broadcast Corp. of Utah	FM Broadcast Station	KFTN 1983
Spanish Fork, UT.	Mountain States Broadcast Corp.	FM Broadcast Station	KTMP1983
Alva, OK.	Zumma Broadcasting Co.	FM Broadcast Station	KXLS 1982
Spanish Fork, UT.	Mountain States Broadcast Corp.	AM Broadcast Station	KONI 1982
Manitou Springs, CO.	Mountain States Broadcast Corp.	AM / FM Broadcast Stations	KIIQ 1979
Fort Collins, CO.	Fort Collins Broadcasting Co. Inc.,	AM / FM Broadcast Stations	KIIX 1973

EXHIBIT 3

The attached information is contained in the application of CSN International for a new NCE station to serve Hanna, Indiana (File No. BPED-980729ML).

PARTIES TO THE APPLICATION

8. Complete the following Table with respect to all parties to this application.

(NOTE: If the applicant considers that to furnish complete information would pose an unreasonable burden, it may request that the Commission waive the strict terms of this requirement with appropriate justification.

INSTRUCTIONS: If applicant is a corporation or an unincorporated association with 50 or fewer stockholders, stock subscribers, holders of membership certificates or other ownership interests, fill out all columns, giving the information requested as to all officers, directors and members of governing board. In addition, give the information as to all persons or entities who are the beneficial or record owners of or have the right to vote capital stock, membership ownership interests or are subscribers to such interest. If the applicant has more than 50 stockholders, stock subscribers or holders of membership certificates or other ownership interests, furnish the information as to officers, directors, members of governing board, and all persons or entities who are the beneficial or record owners of or have the right to vote 1% or more of the capital stock, membership or ownership interests. If applicant is a governmental or public educational agency, board or institution, fill out columns (a), (b), and (c) as to all members of the governing board and chief executive officers.

Name and Residence Address(es) (a)	Office Held (b)	Director or Member of Governing Board		% of: Ownership (O) or Voting Stock(VS) or Membership (M) (d)
		Yes	No	
Charles W. Smith 1624 Antigua Way Newport Beach, CA	President	X		25%
Jeffrey W. Smith 1112 San Jose Cos Mesa, CA	Vice President	X		25%
John A. Laudadio 5000 E. Spring Street, #410 Long Beach, CA	Secretary, Chief Financial Officer	X		25%
Michael R. Kestler Route 3, P.O. Box 1183 Twin Falls, ID	Vice-President - Technical	X		25%
*CSN International is a non-stock corporation. Each Director has one vote, constituting 25% of the total votes on the Board of Directors.				

EXHIBIT B

Other Broadcast Interests

CSN International is licensee of Stations KTRX(FM), Tarkio, Missouri; WFGL, Fitchburg, Massachusetts; WJCX(FM), Pittsfield, Maine; KRSS(FM), Chubbuck, Idaho; KBLD(FM), Kennewick, Washington; WQKO(FM), Howe, Indiana; and KTBJ(FM), Festus, Missouri. It is an applicant to construct new noncommercial educational FM stations identified in the attached listing.

CSN International had applied to acquire the license of silent AM Station WHRF, Bel Air, Maryland (File No. BAL-960507ER), but that application was dismissed when the WHRF license was automatically forfeited due to the licensee's failure to return the station to the air after it had been silent for one year.

Charles W. Smith is President and a Director of Calvary Chapel of Costa Mesa, Inc., licensee of Stations KWVE(FM), San Clemente, California, and KEFX-FM, Twin Falls, Idaho. He is a Director of Calvary Chapel of Twin Falls, Inc. ("CCTF"), licensee of noncommercial educational broadcast Station KAWZ(FM), Twin Falls, Idaho and of a number of FM translator stations located within the continental United States. CCTF is an applicant for a permit to construct a new noncommercial educational FM station in Boise, Idaho (File No. BPED-931207MD). Mr. Smith is President and a Director of Penfold Communications, Inc., licensee of noncommercial educational FM station KRTM(FM), Temecula, California.

Jeffrey W. Smith is Secretary and a Director of CCTF. He is a Vice President and a Director of Penfold Communications, Inc.

Michael R. Kestler is President and a Director of CCTF. He is a Vice President and a Director of Penfold Communications, Inc.,

John A. Laudadio is a Director of Calvary Chapel of Costa Mesa, Inc. He also is Secretary, CFO and a Director of Pennfold Communications, Inc.

Pending Applications

CSN has filed applications for permits to construct new noncommercial educational FM broadcast stations in the following communities:

Elizabeth City, North Carolina	BPED-970418MN
Laytonville, California	BPED-970807MV
Kingman, Arizona	BPED-970822MA
Lompoc, California	BPED-971126MC
Sioux Falls, South Dakota	BPED-980106MB
Sutter, California	BPED-980218MC
Bend, Oregon	BPED-980218MD
Dillon, South Carolina	BPED-980225MP
Rathdrum, Idaho	BPED-980225MO
Coos Bay, Oregon	BPED-980320ML
Pocatello, Idaho	BPED-980410MB
Strasburg, Colorado	BPED-980417MI
Rapid City, South Dakota	BPED-980417MB
Lowell, Indiana	BPED-980417ME
Bend, Oregon	BPED-980417MF
Valparaiso, Indiana	BPED-980511MB
Freeland, Michigan	BPED-980512MT
Cape Canaveral, Florida	BPED-980519MD
Firebaugh, California	BPED-980519MC
Sheridan, Wyoming	BPED-980529MB
Monroeville, Alabama	BPED-980529MC
June Lake, California	BPED-980529MK
Bushland, Texas	BPED-980629MA

Marshalltown, Iowa

Colona, Colorado

Hanna, Indiana

Salem, Oregon

BPED-980629MB

BPED-980707MD

BPED-980729ML

filed August 26, 1998

EXHIBIT 4

The attached information is contained in the application of
Broadcasting for the Challenged, Inc., for a new NCE station to serve Logan,
Utah (File No. BPED-980529MR).

Broadcasting for the Challenged, Inc.
FCC Form 340
Logan, UT
Exhibit 2

George S. Flinn, Jr. presently holds a 50% equity interest (through a 50% shareholder, Colorado Broadcasters) in Longmont Channel 25, Inc., permittee of a U.H.F. television construction permit for Channel 25 at Longmont, Colorado (call letters: KDEN). An FCC Form 316 application is currently pending before the FCC whereby Colorado Broadcasters would assign its interest to Flinn Broadcasting Corporation.

George S. Flinn, Jr. is the President and sole voting shareholder of Flinn Broadcasting Corporation. Flinn Broadcasting Corporation is the licensee of WHBQ (AM), Memphis, Tennessee; the licensee of WOWW (AM), Germantown, Tennessee; the permittee of WFBI (TV), Memphis, Tennessee; the licensee of KXHT (FM), Marion, Arkansas; the licensee of KDRE (FM), North Little Rock, Arkansas; the licensee of WKSL (FM), Germantown, Tennessee; the licensee of WJXN (FM), Utica, Mississippi; and, the licensee of WCCL (TV), New Orleans, Louisiana. FCC Form 303-S license renewal applications are currently pending with respect to KXHT (FM), Marion, Arkansas and KDRE (FM), North Little Rock, Arkansas. Flinn Broadcasting Corporation currently has pending an FCC Form 302 license application with respect to WFBI (TV), Memphis, TN (FCC File Number BLCT-950315KH).

George S. Flinn, Jr. is the permittee of LPTV station W67CV, Memphis, TN; the permittee of LPTV station W57CG, Memphis, TN; and, the permittee of LPTV station W08DH, South East Memphis, TN.

George S. Flinn, Jr. is the permittee of KSIZ (FM), Maumelle, Arkansas (FCC File No. BPH-941020ME, as modified in FCC File No. BMPH-961205ID).

George S. Flinn, Jr. is the permittee of KXXL (FM), Sun Valley, Nevada (FCC File No. BPH-950828MO, as modified in FCC File No. BMPH-970306IA).

George S. Flinn, Jr. has been granted authority to construct a new FM station on Channel 295A at Alexandria, LA (FCC File No. BPH-970529MG).

George S. Flinn, Jr. currently owns a 50% equity interest in Tune Broadcasting, Inc., permittee of WJOI (FM), Tunica, Mississippi.

George S. Flinn, Jr. currently has pending an FCC Form 301 application seeking authority to construct a new FM station on Channel 222A at Grenada, Mississippi (FCC File No. BPH-950828MO). A request for voluntary dismissal of that application is currently pending.

George S. Flinn, Jr. currently has pending FCC Form 301 applications seeking authority to construct the following new FM stations:

<u>Community of License</u>	<u>Channel</u>	<u>FCC File Number (or Filing Date)</u>
Cambria, CA	278A	FCC File No. BPH-950828MJ
Forest Acres, SC	232A	FCC File No. BPH-960912MI
Oxford, MS	286A	FCC File No. BPH-961107ME
State College, MS	283C3	FCC File No. BPH-961118M7
Wellington, CO	232C3	FCC File No. BPH-961127MD
Temecula, CA	277A	FCC File No. BPH-961219MJ
Alva, OK	278C1	FCC File No. BPH-970306MD
Bolingbroke, GA	271A	FCC File No. BPH-970407MP
Waldo, AR	256A	FCC File No. BPH-970407MQ
Craig, CO	273C	FCC File No. BPH-970407__
Fairbury, IL	299B1	FCC File No. BPH-970407MR
Weaverville, CA	266A	FCC File No. BPH-970506MA
Goochland, VA	263A	FCC File No. BPH-970604MG
Poplar Bluff, MO	223A	FCC File No. BPH-970709ME
Charlevoix, MI	300A	FCC File No. BPH-970717MB
Grenada, MS	267A	FCC File No. BPH-970717MF
Glen Arbor, MI	227A	FCC File No. BPH-970724M4
Oro Valley, AZ	270A	FCC File No. BPH-970724M2
Great Falls, MT	262C	FCC File No. BPH-970724MX
Blair, NE	247C3	FCC File No. BPH-970724MK
Des Arc, AR	284A	FCC File No. BPH-970807M7
Grass Valley, CA	277A	FCC File No. BPH-970814MR
Greenwood, AR	268A	FCC File No. BPH-970910MM
Steamboat Springs, CO	255A	FCC File No. BPH-970910MF
Lexington, IL	258A	FCC File No. BPH-970911MF
Huntsville, UT	276C3	FCC File No. BPH-970923MI
Truckee, CA	268A	FCC File No. BPH-971002MH
Idalou, TX	299A	FCC File No. BPH-971015MF
Shawsville, VA	273A	FCC File No. BPH-971022MC
Woodville, FL	250A	FCC File No. BPH-971029MP
Vinton, IA	296A	FCC File No. BPH-971107MK
Oakley, UT	268C1	FCC File No. BPH-971119MA
Naylor, MO	260A	FCC File No. BPH-971203ME
Sardis, MS	271A	FCC File No. BPH-971203MC

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George S. Flinn, Jr. currently has pending an FCC Form 301 application seeking authority to construct a new AM station on 1130 kHz at Honolulu, HI (FCC File No. BP-971103AC). George S. Flinn, Jr. currently has pending an FCC Form 301 application seeking authority to construct a new AM station on 1400 kHz at Sparks, NV (FCC File No. BP-971223AC).

George S. Flinn, Jr. is a member of the governing board of Kaleidoscope Foundation, Inc., an applicant which filed an FCC Form 340 application on April 5, 1996 seeking authority to construct a new noncommercial TV station on Channel 14 at Memphis, Tennessee.

Flinn Broadcasting Corporation (formerly a 50% partner) has assumed 100% ownership and control of the following FCC Form 301 television applications filed in the name of Kaleidoscope Partners which are currently pending before the FCC:

<u>Community of License</u>	<u>Channel</u>	<u>FCC File Number (or Filing /Date)</u>
Destin, FL	64	BPCT-960405XK
Provo, UT	32	BPCT-960405L3
Gosnell, AR	46	BPCT-960405__
Des Moines, IA	69	BPCT-960405LV

George S. Flinn, Jr. currently has pending FCC Form 301 applications seeking authority to construct the following new TV stations:

<u>Community of License</u>	<u>Channel</u>	<u>FCC File Number (or Filing Date)</u>
Virginia Beach, VA	21	BPCT-960718KR
Norman, OK	46	BPCT-961001YF
Kailua, HI	50	BPCT-961001YE
Tallahassee, FL	24	BPCT-961001YD
Waimanalo, HI	56	BPCT-961119KG
Mililani Town, HI	60	BPCT-970331__

George S. Flinn, Jr. is a member of the governing board of Broadcasting for the Challenged, Inc., an entity which currently has pending has pending FCC Form 340 applications seeking authority to construct the following new television and radio stations:

<u>Community of License</u>	<u>Channel</u>	<u>FCC File Number (or Filing Date)</u>
Hot Springs, AR	20	BPET-961001KG
Tulsa, OK	63	BPET-961001KH
Senatobia, MS	34	BPET-961001KI
Phoenix, AZ	39	BPET-961001KF
Memphis, TN	56	BPET-961118KJ
Nogales, AZ	16	BPET-961119KH
Ogden, UT	18	BPET-961119KK
Salt Lake City, UT	26	BPET-970331__

Indianola, MS	204C1	BPED-970807MU
Ashland, VA	201A	BPED-970807MN
Strasburg, CO	249C3	BPED-970814MA
Bessemer, AL	201C2	BPED-971010MF
Victoria, TX	218A	BPED-971114MB
Marion, IA	210A	BPED-971114ME
Colorado City, CO	210C3	BPED-971114MC
Rye, CO	215C3	BPED-971202MC
Cheyenne, WY	201A	BPED-971210MA
Orchard Valley, WY	209C1	BPED-971210MB
Selma, AL	209A	BPED-971211MA
Kalispell, MT	204C1	BPED-980108MF
Arvin, CA	219A	BPED-980109MK
Sulphur, LA	206A	BPED-980109MJ
Norco, LA	216A	BPED-980109MG
Missoula, MT	202C2	BPED-980108MH
York, PA	204A	BPED-980109MO
Sioux Falls, SD	211A	BPED-980108MK
Brownsville, TN	202A	BPED-980108MI
Midland, TX	211A	BPED-980109MJ
Vail, CO	206A	BPED-980120MA
Rathdrum, ID	212C3	BPED-980225MB
New Bedford, MA	201A	BPED-980225MC
Abilene, TX	213C2	BPED-980225MA
Harlingen, TX	210A	BPED-980225MJ
Key West, FL	211C3	BPED-980318MF
Great Falls, MT	218C3	BPED-980318ME
Nantucket, MA	208A	BPED-980319MH
Peoria, IL	214A	BPED-980319MG
Cape Charles, VA	206B	BPED-980319MF
Lowell, IN	206A	BPED-980415MA
Sidney, CO	217A	BPED-980415MB
Hastings, NE	219A	BPED-980512__
Chesterton, IN	216A	BPED-980512MU
Bunkie, LA	208A	BPED-980512__
Michigan City, IN	203A	BPED-980512MJ
Pocola, OK	201A	BPED-980512MS
Poplar Bluff, MO	204C2	BPED-980529__
Farmington, MO	205C2	BPED-980529__
Elizabeth City, NC	202C2	BPED-980529__
Logan, UT	213A	BPED-980529__
Telluride, CO	214A	BPED-980529__

As part of settlement agreements in the respective proceedings, George S. Flinn, Jr. currently has pending requests for dismissal of the following FM and TV applications:

<u>Community of License</u>	<u>Channel</u>	<u>FCC File Number (or Filing Date)</u>
Selma, AL	287C2	BPH-960507MY
Jackson, MS	51	BPCT-961001UV
Midland, TX	18	BPCT-970331__

As part of settlement agreements in the respective proceedings, George S. Flinn, Jr. currently has pending requests for grant of the following FM and TV applications pursuant to which he would be awarded construction permits:

<u>Community of License</u>	<u>Channel</u>	<u>FCC File Number (or Filing Date)</u>
Selma, AL	29	FCC File No. BPCT-961119KE
Middleton, TN	264C3	FCC File No. BPH-970115MC

As part of a settlement agreement, George S. Flinn, Jr. has requested dismissal of his pending FCC Form 301 application for Tazewell, Tennessee (Channel 48; BPCT-960502KG) in return for a 25% interest in Tazewell Broadcasting, Inc. (i.e., an applicant which will continue to prosecute an application for Tazewell, Tennessee as a merged entity).

George S. Flinn, Jr. (President and 100% voting stockholder of Flinn Broadcasting Corporation) was an individual applicant for the following FM stations. The various applications were dismissed with prejudice by the Commission either as part of a settlement or as a result of a voluntary request for dismissal:

<u>Community</u>	<u>Filing Date/File Number</u>
Sun Valley, NV	FCC File No. BPH-960926MH
Tehachapi, CA	FCC File No. BPH-970102MC
Nocatee, FL	FCC File No. BPH-970306ME
Ball, LA	FCC File No. BPH-970529ME
Wake Village, TX	FCC File No. BPH-970702MJ
Humboldt, TN	May 6, 1987
Roswell, GA	July 27, 1987
Carmel, CA	February 11, 1988
Merced, CA	March 1, 1988
Modesto, CA	March 1, 1988
Santa Barbara, CA	March 1, 1988
Corpus Christi, TX	March 10, 1988

Pensacola, FL	March 24, 1988
Smyrna, TN	May 12, 1988
Marked Tree, AR	May 19, 1988
Wrights. Beach , NC	May 19, 1988

Fred Flinn is the licensee of WGSF (AM), Bartlett, Tennessee and WAVN (AM), Southaven, Mississippi.

Catherine Joanna Flinn has pending an FCC Form 301 application seeking authority to construct a new FM station on Channel 280C3 at Earle, Arkansas (FCC File No. 951019MF).

CERTIFICATE OF SERVICE

The undersigned, an employee of Haley Bader & Potts P.L.C., hereby certifies that the foregoing document was mailed this date by First Class U.S. Mail, postage prepaid, or was hand-delivered*, to the following:

Chairman William E. Kennard*
Federal Communications Commission
The Portals
445 Twelfth Street, S.W., Room 8-B201H
Washington, DC 20554

Commissioner Susan Ness*
Federal Communications Commission
The Portals
445 Twelfth Street, S.W., Room 8-B115H
Washington, DC 20554

Commissioner Gloria Tristani*
Federal Communications Commission
The Portals
445 Twelfth Street, S.W., Room 8-C302C
Washington, DC 20554

Commissioner Michael K. Powell*
Federal Communications Commission
The Portals
445 Twelfth Street, S.W., Room 8-A204C
Washington, DC 20554

Commissioner Harold Furchtgott-Roth*
Federal Communications Commission
The Portals
445 Twelfth Street, S.W., Room 8-A302C
Washington, DC 20554

Roy Stewart, Chief*
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 314
Washington, D.C. 20554

A handwritten signature in black ink, reading "Amy L. Stanahan", is written over a horizontal line.

January 28, 1999